

REMARKS

The examiner has declined to consider DE 19612738, cited in the information disclosure statement that was filed July 17, 2006, on the ground that the document is not in the English language and the information disclosure statement does not include a concise explanation of the relevance of the document. As stated in MPEP 609, the requirement for a concise explanation of relevance is considered to be met in the case of a document cited in a foreign search report. In this case, applicant noted that the document is cited in the international search report, but the examiner indicated that the international search report was not included with the information disclosure statement.

Applicant did not include a copy of the international search report with the information disclosure statement because a copy of the international search report had been previously filed on June 30, 2006 with the items for entering the US national stage. Nevertheless, a copy of the international search report is submitted herewith. Applicant requests that the examiner should confirm that DE 19612738 has been considered by initialing and returning a copy of the information disclosure statement.

The examiner has rejected claims 17-33 as being indefinite. Applicant has replaced claims 17-33 with new claims 34-51. Applicant believes that the new claims comply with the requirements of 35 USC 112, second paragraph.

The examiner has rejected the independent device claim 17 under 35 USC 102 as being anticipated by Koch. Applicant believes that the new independent device claims 34 and 37 distinguish the subject matter of this application over the disclosure of Koch.

The examiner considers that the check 26 disclosed by Koch is an apt counterpart for the piston recited in claim 17 and that the check grooves 58, the check spring cavity 52 and the high pressure fluid chamber 44 correspond respectively to the auxiliary volume, the second main volume and the first main volume of claim 17.

Claim 34 recites that movement of the piston in a second direction results in increase in pressure in the auxiliary chamber,

and further movement of the piston in the second direction establishes a connection from the auxiliary chamber to the second main chamber, permitting fuel flow from the auxiliary chamber to the second main chamber and speeding up movement of the piston in the second direction.

The device disclosed by Koch is unable to operate in this manner. Since the check grooves 58 are connected to the high pressure fluid chamber 44, upward movement of the check 26 has no effect on the pressure in the check grooves 58.

Additionally, movement of the check 26 upwards is not speeded up by establishing a connection from the check grooves 58 to the check spring cavity 52, because fuel can flow from the high pressure fluid chamber 44 into the check spring cavity 52.

Claim 37 includes the limitations of claim 34 but also recites the second piston and second resilient means. Since claim 37 is narrower in scope than claim 34, the arguments presented above insupportable claim 34 apply to claim 37 also.

The independent method claim 48 is directed to the mode of operation of the device whose structure is claimed in claim 34. Since the device disclosed by Koch is not operable in the manner set forth in claim 34, it follows that it cannot perform the method recited in claim 48.

In view of the foregoing, applicant submits that the subject matter of the independent claims 34, 37 and 48 is not disclosed or suggested by the cited reference. Therefore, claims 34, 37 and 48

are patentable and it follows that the dependent claims also are patentable.

Respectfully submitted,

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